

27112. Adulteration and misbranding of malted milk powder. U. S. v. 3 Barrels of Malted Milk Powder. Default decree of condemnation and destruction. (F. & D. no. 39141. Sample no. 26585-C.)

This case involved malted milk powder in which fat or oil other than butterfat had been substituted for butterfat.

On February 26, 1937, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three barrels of malted milk powder at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about November 9, 1936, by Vac-Made Food Corporation from Chicago, Ill., and charging adulteration and misbranding in violation of the Food and Drugs Act. It was labeled in part: (Barrel) "Vac-Maid Malted Milk"; (tag) "From Vac-Made Food Corp., * * * Chicago, Ill."

The article was alleged to be adulterated in that a substance containing a fat or oil other than butterfat had been mixed and packed with it so as to reduce or lower its quality or strength, and in that a substance containing fat or oil other than butterfat had been substituted wholly or in part for malted milk, which the article purported to be.

It was alleged to be misbranded in that the statement "Malted Milk", borne on the barrel, was false and misleading and tended to deceive and mislead the purchaser, when applied to an article that contained a fat or oil other than butterfat.

On March 10, 1937, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

27113. Adulteration and misbranding of potatoes. U. S. v. 370 Bags of Potatoes. Consent decree of condemnation. Product released under bond to be sorted and relabeled. (F. & D. no. 39160. Sample no. 17929-C.)

These potatoes were below the grade declared on the label.

On March 1, 1937, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 370 bags of potatoes at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about February 17, 1937, by M. A. Sanborn from Dover-Foxcroft, Maine, and charging adulteration and misbranding in violation of the Food and Drugs Act. It was labeled in part: (Tag) "Grade U. S. No. 2"

The article was alleged to be adulterated in that potatoes below U. S. Grade No. 2 had been substituted in part for potatoes conforming to U. S. Grade No. 2 standard, which it purported to be.

Misbranding was alleged in that the statement "Grade U. S. No. 2" was false and misleading and tended to deceive and mislead the purchaser into believing that the bags contained U. S. Grade No. 2 potatoes, whereas they did not.

On March 10, 1937, M. A. Sanborn, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the potatoes be released under bond conditioned that they be sorted, resacked, and properly marked or tagged.

W. R. GREGG, *Acting Secretary of Agriculture.*

27114. Adulteration of Emulsol-M (frozen egg product). U. S. v. 120 Cans of Frozen Eggs. Consent decree of condemnation. Product released under bond for segregation and destruction of decomposed portion. (F. & D. no. 39161. Sample no. 8858-C.)

This case involved a frozen egg product that was in part decomposed.

On March 2, 1937, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 120 cans of frozen egg product at Brooklyn, N. Y., alleging that it had been shipped in interstate commerce on or about January 19, 1937, by the Emulsol Corporation from Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Emulsol-M A superior emulsifying agent for baking The Emulsol Corporation * * * Chicago."

The article was alleged to be adulterated in that it consisted in part of a decomposed animal substance.

On March 22, 1937, the Emulsol Corporation, claimant, having admitted the allegations of the libel and having consented to the entry of a decree,

judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that the decomposed portion be separated therefrom and destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

27115. Adulteration and misbranding of olive oil. U. S. v. 7 Cans and 7 Cans of Alleged Pure Olive Oil. Default decree of condemnation and destruction. (F. & D. nos. 39168, 39169. Sample nos. 33523-C, 33524-C.)

This case involved olive oil with which cottonseed oil had been mixed and packed.

On March 5, 1937, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 14 gallon cans of alleged pure olive oil at Indiana Harbor, Ind., alleging that it had been shipped in interstate commerce on or about January 15, 1937, by Kakarakis Bros., from Chicago, Ill., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Electra Brand Extra Superfine Pure Olive Oil Kakarakis Bros., Chicago, Ill."

It was alleged to be adulterated in that cottonseed oil had been mixed and packed therewith so as to reduce or lower its quality or strength, and had been substituted wholly or in part for olive oil, which it purported to be.

The article was alleged to be misbranded in that the following statements were false and misleading and tended to deceive and mislead the purchaser when applied to an article containing cottonseed oil; (Main panels) "Extra Superfine Pure Olive Oil [one main panel in addition bore the Greek equivalent];" (one side of panel) "Warranted absolutely pure olive oil under chemical analysis"; (other side panel in Greek, probably a translation of the English panel). Misbranding was alleged for the further reason that it was offered for sale under the distinctive name of another article, namely, olive oil.

On April 9, 1937, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

27116. Misbranding of canned peas. U. S. v. 300 Cases and 960 Cases of Canned Peas. Consolidated decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. nos. 39191, 39193. Sample nos. 35240-C, 35241-C.)

These canned peas fell below the standard established by this Department since they were not immature, and were not labeled to indicate that they were substandard.

On March 8 and March 9, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,260 cases of canned peas at Philadelphia, Pa., alleging that they had been shipped in interstate commerce on or about December 22, 1936, and January 2, 1937, from Cambridge, Md., by Phillips Packing Co., Inc., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Phillips Delicious Early June Peas * * * Packed By Phillips Packing Co., Inc. Cambridge, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture since the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On March 29, 1937, the Phillips Packing Co., Inc., having appeared as claimant and the cases having been consolidated, judgment of condemnation was entered and it was ordered that the product be released under bond to be relabeled.

W. R. GREGG, *Acting Secretary of Agriculture.*

27117. Adulteration and misbranding of potatoes. U. S. v. 450 Crates of Potatoes. Decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 39207. Sample no. 43526-C.)

This product fell below the grade indicated on the label.

On March 11, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 450 crates of potatoes at Philadelphia, Pa., alleging that they had been shipped in interstate